

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: June 15, 2005

Division: Growth Management

Bulk Item: Yes ☐ No ☒

Department: Planning and Environmental Services

Staff Contact Person: K. Marlene Conaway

AGENDA ITEM WORDING: A public hearing to adopt an Interim Development Ordinance for the U.S. Highway 1 Corridor between Tavernier Creek and Mile Marker 97 deferring the acceptance of development applications and providing for expiration date of September 1, 2005 or upon adoption of design standards and design guidelines, whichever comes first.

(2nd of 2 required public hearings)

ITEM BACKGROUND: The Board of County Commissioners (BOCC) at their meeting of February 16, 2005, adopted the Livable CommuniKeys Master Plan Tavernier Creek to Mile Marker 97 as an amendment to the Monroe County Year 2010 Comprehensive Plan. At the direction of the BOCC, Growth Management staff prepared an Interim Development Ordinance to defer acceptance of development applications that seek development approval for new development or redevelopment in the U.S. 1 Highway Corridor Tavernier Creek to Mile Marker 97. On January 16, 2005, the BOCC contracted with HDR consultants to develop design standards and design guidelines for development and redevelopment within the subject area.

PREVIOUS RELEVANT BOCC ACTION: The BOCC adopted the Livable CommuniKeys Master Plan for Tavernier Creek to Mile Marker 97 on February 16, 2005.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval

TOTAL COST: N/A

BUDGETED: Yes ☐ No ☐

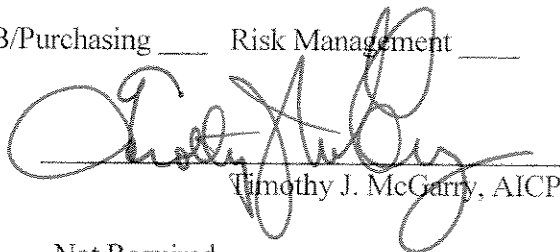
COST TO COUNTY: N/A

SOURCE OF FUNDS: _____

REVENUE PRODUCING: Yes N/A No ☐ **AMOUNT PER MONTH** _____ **Year** _____

APPROVED BY: County Atty X OMB/Purchasing _____ Risk Management _____

DIVISION DIRECTOR APPROVAL:


Timothy J. McGarry, AICP

DOCUMENTATION: Included ☐ Not Required ☐

DISPOSITION: _____

AGENDA ITEM # _____

Handwritten initials

INTERIM DEVELOPMENT ORDINANCE
US 1 HIGHWAY CORRIDOR BETWEEN TAVERNIER
CREEK AND MILE MARKER 97

BOARD OF COUNTY COMMISSIONERS
Marathon
June 15, 2005

INTERIM DEVELOPMENT ORDINANCE

A REQUEST BY MONROE COUNTY DEPARTMENT OF PLANNING AND ENVIRONMENTAL RESOURCES TO ADOPT AN INTERIM DEVELOPMENT ORDINANCE FOR THE U.S. HIGHWAY 1 CORRIDOR BETWEEN TAVERNIER CREEK AND MILE MARKER 97; ESTABLISHING THE BOUNDARIES THEREOF; DEFERRING THE ACCEPTANCE OF DEVELOPMENT APPLICATIONS UNTIL DESIGN STANDARDS AND GUIDELINES ARE ADOPTED; PROVIDING FOR EXEMPTIONS; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS (DCA); PROVIDING FOR EXPIRATION WITHIN SIX MONTHS AFTER THE EFFECTIVE DATE OF THE LIVABLE COMMUNIKEYS MASTER PLAN TAVERNIER CREEK TO MILE MARKER 97 OR UPON ADOPTION OF DESIGN STANDARDS AND DESIGN GUIDELINES, WHICHEVER COMES FIRST.

STAFF:	Approval	May 23, 2005	
DRC:	Approval	March 24, 2005	Resolution # D7-05
PC:	Approval	April 27, 2004	Resolution # P17-05

DRAFT BOCC ORDINANCE

ORDINANCE NO.

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AN INTERIM DEVELOPMENT ORDINANCE FOR THE U.S. HIGHWAY 1 CORRIDOR BETWEEN TAVERNIER CREEK AND MILE MARKER 97; ESTABLISHING THE BOUNDARIES THEREOF; DEFERRING THE ACCEPTANCE OF DEVELOPMENT APPLICATIONS UNTIL DESIGN STANDARDS AND GUIDELINES ARE ADOPTED; PROVIDING FOR EXEMPTIONS; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS (DCA); PROVIDING FOR EXPIRATION WITHIN SIX MONTHS AFTER THE EFFECTIVE DATE OF THE LIVABLE COMMUNIKEYS MASTER PLAN TAVERNIER CREEK TO MILE MARKER 97 OR UPON ADOPTION OF DESIGN STANDARDS AND DESIGN GUIDELINES, WHICHEVER COMES FIRST.

WHEREAS, the Board of County Commissioners at their meeting of February 16, 2005, adopted the Livable CommuniKeys Master Plan Tavernier Creek to Mile Marker 97 as an amendment to the Monroe County Year 2010 Comprehensive Plan (referred to hereafter as the 2010 Plan); and

WHEREAS, The Livable CommuniKeys Master Plan for Tavernier Creek to Mile Marker 97 (referred to hereafter as the Master Plan) is the product of the Livable CommuniKeys program as outlined in the 2010 Plan Objective 101.20; and

WHEREAS, Goal 105, "Smart Growth," was adopted by the Board of County Commissioners in 2001; and

WHEREAS, Objective 105.1.2 directs the County to prepare design guidelines to ensure that future uses and development are compatible with scenic preservation and maintenance of the character of the casual island village atmosphere of the Florida Keys; and

WHEREAS, the 2010 Plan Objective 101.20 identifies the Livable CommuniKeys Planning Program as a planning program designed to address community needs while balancing the needs of all of Monroe County; and

WHEREAS, Action Item 3.1.2 in the adopted Master Plan requires that design standards be prepared and that any new development or redevelopment within the US 1 Highway corridor be consistent with design standards; and

WHEREAS, Action Item 3.1.5 in the adopted Master Plan directs the County to adopt a temporary moratorium on development in the corridor until the guidelines are adopted or six months after the effective date of the Master Plan, whichever comes first; and

WHEREAS, the County has committed necessary staff and resources to the development of the design standards and design guidelines in order to facilitate diligent and good faith efforts to establish policies and regulations within a reasonable period of time; and

WHEREAS, the utilization of the moratorium device as a temporary measure to facilitate government decision making, study and adoption of comprehensive plan and land development regulations is a legitimate governmental tool to facilitate logical and considered growth and as a means of avoiding inefficient and ill-conceived development; and,

WHEREAS, the Board of County Commissioners, in anticipation of the adoption of the Master Plan, voted to contract with HDR Consultants to prepare the design guidelines and design standards and implementation measures including Land Development Regulations at their meeting of January 19, 2005; and

WHEREAS, the County finds that it is necessary to enact an Interim Development Ordinance deferring the acceptance of development applications that seek development approval for new development or redevelopment in the U. S Highway 1 corridor until such time that the County can prepare design guidelines; and,

WHEREAS, the purpose of this Interim Development Ordinance provides mechanisms to assure democratic discussions and participation by citizens, developers, and property owners who may be affected by eventual amendments to the Land Development Regulations; and

WHEREAS, Chapter 125 F.S., authorizes the Board of County Commissioners to adopt ordinances to provide standards protecting against imminent and immediate threat to the health, safety, and welfare of the citizens of Monroe County; and

WHEREAS, this Interim Development Ordinance constitutes a valid exercise of the County's police power and is otherwise consistent with Section 163.3161, *et seq.*, F.S., which, *inter alia*, encourages the use of innovative land development regulations including provisions like moratoria to implement the adopted comprehensive plan; and

WHEREAS, the purpose and intent of this Interim Development Ordinance is necessary to provide the County the opportunity to create design standards and design guidelines for review and approval of developments requiring review under Action Item 3.1.2 of the Master Plan; and

WHEREAS, following the direction of the Board of County Commissioners in the adopted Master Plan, the Growth Management Division staff immediately undertook the development of this Interim Development Ordinance and began working with the consultants HDR, Inc on development of design standards and guidelines; and

WHEREAS, the Planning Commission has reviewed the draft Interim Development Ordinance and recommended approval to the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners has reviewed and considered the draft Interim Development Ordinance recommended by the Planning Commission and Planning staff.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1: Pursuant to the Livable CommuniKeys Master Plan Tavernier Creek to Mile Marker 97 adopted by the Board of County Commissioners on February 16, 2005, the Interim Development Ordinance shall apply to the U.S. Highway 1 Corridor between Tavernier Creek and Mile Marker 97 including the Community Center, the boundaries of which are described on the map, attached hereto as Exhibits 1 and 2, and hereby is made part of this ordinance.

Section 2: Pursuant to its lawful authority and the pending legislation doctrine as set forth in *Smith v. City of Clearwater*, 383 So.2d 681 (Fla. 2d DCA, 1980) the Board of County Commissioners hereby establishes the interim development regulations set forth in this Ordinance, which shall remain in full force and effect until the expiration of this legislation, September 1, 2005 or whenever the land development regulations and design standards and guidelines become effective, whichever comes first.

Section 3: During the period (defined in Section 2, above) that this Interim Development Ordinance is in effect, no application for a building permit or development approval shall be granted for new development or redevelopment, within the U.S. Highway 1 Corridor between Tavernier Creek and Mile Marker 97 including the Community Center, which meet the following criteria:

1. Any new or expanded non-residential structures.
2. Any new or expanded outdoor retail sales.
3. Any new residential structure containing more than two units or redeveloped residential structure containing more than two units that involves a change in floor area, building height, or configuration of building footprint.
4. Any new transient residential structure or redeveloped existing transient residential structure that involves a change in floor area, building height, or configuration of building footprint.

Section 4: The following are exempt from this ordinance:

1. Public buildings as defined in Section 9.5-4 (P-18) of the Code and redevelopment of existing structures subject to review and approval of building design by the Planning Commission, based on the draft architectural design standards and design guidelines prepared for the county by HDR consultants.
2. Development under an approved conditional use permit, repair and/or approvals required for life safety improvements.

Section 5: The Planning Commission is hereby authorized to hear such review created by Section 4 hereof, and approve or disapprove any building design based on the draft architectural design standards and design guidelines. Notice of the public hearing shall be given in conformance with procedures of Section 9.5-45. The application for design review shall be in a

form specified by the director of planning and shall be accompanied by a nonrefundable application fee of \$250.00.

Section 6: Until expiration of the Interim Development Ordinance created by Sections 1, 2 and 3 hereof, no application for a building permit or development approval shall be granted pursuant to an application or request with a submittal date of April 1, 2005, or later.

Section 7: Any application for a building permit or development approval with a submittal date of March 31, 2005 or earlier shall be exempt from this Interim Development Ordinance.

Section 8: As of the effective date of this Ordinance no building permit application or planning approval meeting the criteria for review identified in Section 3 hereof, shall be accepted or processed by the Growth Management Division, except applications exempt hereunder and development awarded a vested rights determination pursuant to Section 10 hereof.

Section 9: This Ordinance shall not be construed to prohibit application for, or the issuance of a building permit or development approval for any development or redevelopment that does not meet the criteria for review identified in Section 3 hereof that is allowed pursuant to the Monroe County Land Development Regulations and the 2010 Plan.

Section 10: Any property owner adversely affected by the provisions of this Interim Development Ordinance may seek a determination that the owner's proposed development or redevelopment is vested against the provisions of this Interim Development Ordinance, by filing with the Director of Growth management, together with an administrative fee in the amount of \$400.00, a vested rights application setting forth facts establishing the applicant met, prior to April 1, 2005, the vested rights standards set forth in Section 9.5-181, Monroe County code. Such application must be filed no later than sixty (60) days after the effective date of this ordinance.

Section 11: The County Administrator is directed to have the Growth Management Division begin immediately preparing the draft text and other supporting studies in cooperation with the Planning Commission to develop design standards and design guidelines for development and redevelopment along the U.S. Highway 1 Corridor between Tavernier Creek and Mile Marker 97 including the Community Center.

Section 12: In preparing these amendments, the County Administrator is directed to focus the Growth Management Division's efforts in the following important areas: 1) preparation of design standards and design guidelines to ensure that future uses and development are compatible with scenic preservation and maintenance of the character of the casual island village atmosphere of the Florida Keys; 2) identification of regulatory amendments and strategies to ensure that the goals and objectives of the 2010 Plan and the Master Plan are properly implemented.

Section 13: If any section, subsection, sentence, clause, item, change or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

Section 14: All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 15: The ordinance is hereby transmitted to the Florida Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

Section 16: This ordinance shall be filed in the Office of the Secretary of State of the State of Florida, but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving pursuant to Chapter 380, Florida Statutes.

Section 17: This Ordinance shall stand repealed as of September 1, 2005 or upon the adoption of design standards and design guidelines for the U.S. Highway 1 Corridor Between Tavernier Creek and Mile Marker 97 including the Community Center ~~or Six months after the effective date of the Livable Communities Master Plan Tavernier Creek to Mile Marker 97,~~ whichever comes first, unless repealed sooner or extended pursuant to the terms set forth herein.

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PASSED AND ADOPTED by the Board of County Commissioners of Monroe County,
Florida at a regular meeting held on the _____ day of _____ 2005.

Mayor Dixie Spehar	_____
Mayor Pro Tem Charles "Sonny" McCoy	_____
Commissioner George Neugent	_____
Commissioner David Rice	_____
Commissioner Murray Nelson	_____

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY _____
Mayor Dixie Spehar

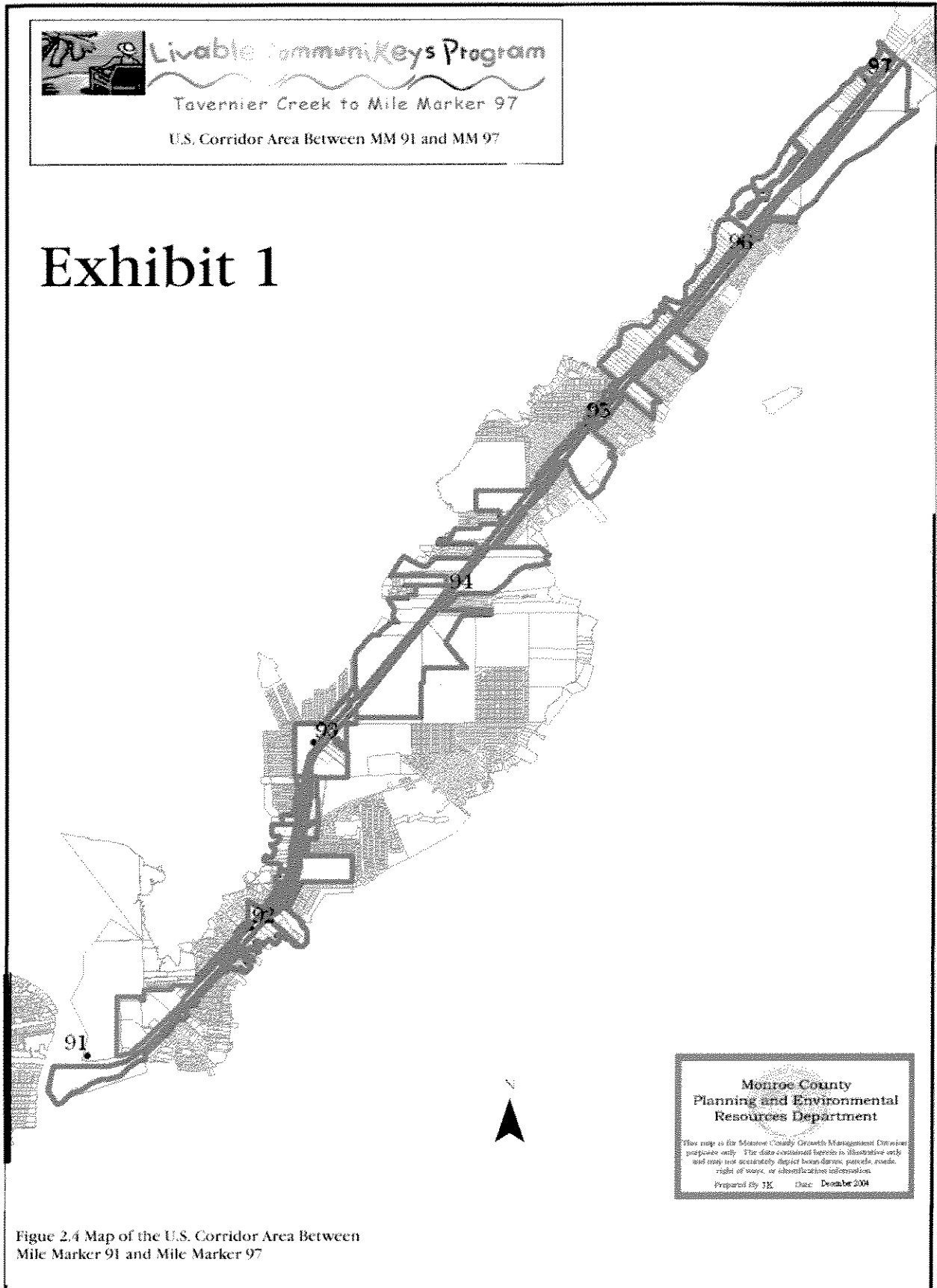
(SEAL)

ATTEST: DANNY L. KOHAGE, CLERK

Deputy Clerk



ATTACHED – U.S. HIGHWAY 1 CORRIDOR BETWEEN TAVERNIER CREEK
AND MM 97 AND COMMUNITY CENTER MAP





Livable CommuniKeys Program

Tavernier Creek to Mile Marker 97
U.S. Highway 1 Community Center

Exhibit 2

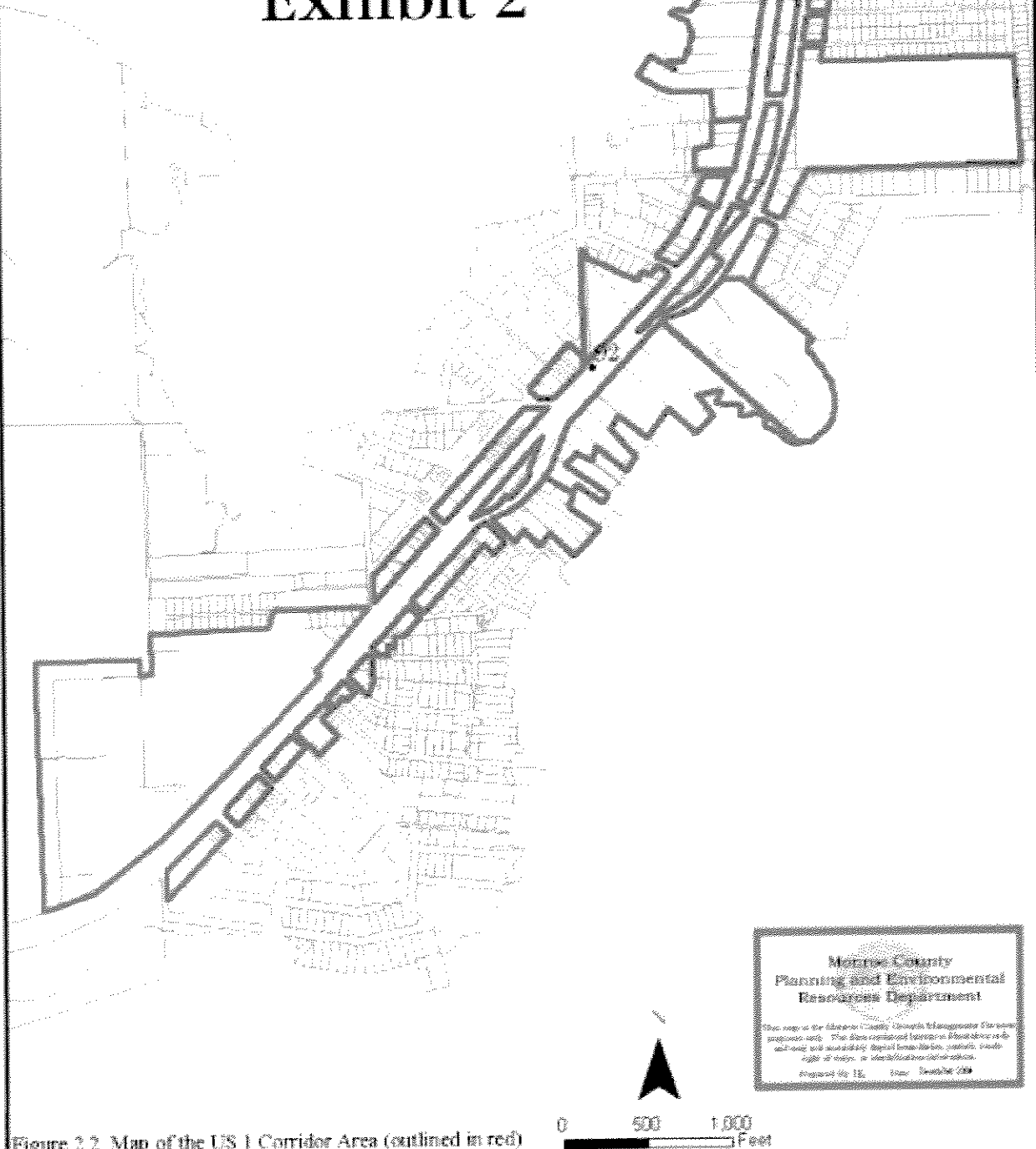


Figure 2.2 Map of the US 1 Corridor Area (outlined in red)

BOCC STAFF REPORT

GROWTH MANAGEMENT DIVISION

2798 Overseas Highway
Suite 400
Marathon, Florida 33050
Voice: (305) 289-2500
FAX: (305) 289-2536



BOARD OF COUNTY COMMISSIONERS

Mayor Dixie M. Spehar, District 1
Mayor Pro Tem Charles "Sonny" McCoy, District 3
George Neugent, District 2
David P. Rice, District 4
Murray E. Nelson, District 5

MEMORANDUM

To: The Board of County Commissioners

From: K. Marlene Conaway, Director, Planning and Environmental Resources *JMC*

Date: May 23, 2005

**Subject: BOCC Adopted Changes and Staff Amendment: U.S. Highway 1 Corridor
Tavernier Creek to MM 97 including the Community Center**

Summary

At a regular meeting on May 18, 2005, the BOCC amended Section 2 and Section 17 of the IDO to create a specific end date for the IDO of September 1, 2005, or whenever the land development regulations and design standards and guidelines become effective, whichever comes first.

As Amended by BOCC

Section 2: Pursuant to its lawful authority and the pending legislation doctrine as set forth in *Smith v. City of Clearwater*, 383 So.2d 681 (Fla. 2d DCA, 1980) the Board of County Commissioners hereby establishes the interim development regulations set forth in this Ordinance, which shall remain in full force and effect until the expiration of this legislation ~~within six months of the effective date of the Livable CommuniKeys Master Plan Tavernier Creek to Mile Marker 97, September 1, 2005~~ or whenever the land development regulations and design standards and guidelines become effective, whichever comes first.

Section 17: This Ordinance shall stand repealed as of September 1, 2005 or upon the adoption of design standards and design guidelines for the U.S. Highway 1 Corridor Between Tavernier Creek and Mile Marker 97 including the Community Center ~~or Six months after the effective date of the Livable CommuniKeys Master Plan Tavernier Creek to Mile Marker 97~~, whichever comes first, unless repealed sooner or extended pursuant to the terms set forth herein.

Staff Recommendation

The following amendments have been approved by the BOCC and are reflected in the IDO as amended:

Section 2: Pursuant to its lawful authority and the pending legislation doctrine as set forth in *Smith v. City of Clearwater*, 383 So.2d 681 (Fla. 2d DCA, 1980) the Board of County Commissioners hereby establishes the interim development regulations set forth in this Ordinance, which shall remain in full force and effect until the expiration of this legislation ~~within six months of the effective date of the Livable CommuniKeys Master Plan Tavernier Creek to Mile Marker 97, September 1, 2005~~ or whenever the land development regulations and design standards and guidelines become effective, whichever comes first.

Section 17: This Ordinance shall stand repealed as of September 1, 2005 or upon the adoption of design standards and design guidelines for the U.S. Highway 1 Corridor Between Tavernier Creek and Mile Marker 97 including the Community Center ~~or Six months after the effective date of the Livable CommuniKeys Master Plan Tavernier Creek to Mile Marker 97~~, whichever comes first, unless repealed sooner or extended pursuant to the terms set forth herein.

RESOLUTION NO. P-17-05

AN RESOLUTION BY THE MONROE COUNTY PLANNING COMMISSION RECOMMENDING ADOPTION OF AN INTERIM DEVELOPMENT ORDINANCE FOR THE U.S. HIGHWAY 1 CORRIDOR BETWEEN TAVERNIER CREEK AND MILE MARKER 97; ESTABLISHING THE BOUNDARIES THEREOF; DEFERRING THE ACCEPTANCE OF DEVELOPMENT APPLICATIONS UNTIL DESIGN STANDARDS AND GUIDELINES ARE ADOPTED; PROVIDING FOR EXEMPTIONS; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS (DCA); PROVIDING FOR EXPIRATION WITHIN SIX MONTHS AFTER THE EFFECTIVE DATE OF THE LIVABLE COMMUNIKEYS MASTER PLAN TAVERNIER CREEK TO MILE MARKER 97 OR UPON ADOPTION OF DESIGN STANDARDS AND DESIGN GUIDELINES, WHICHEVER COMES FIRST.

WHEREAS, The Monroe County Planning Commission, during a public hearing held on April 27, 2005, reviewed and considered the proposed Interim Development Ordinance; and

WHEREAS, the Board of County Commissioners at their meeting of February 16, 2005, adopted the Livable CommuniKeys Master Plan Tavernier Creek to Mile Marker 97 as an amendment to the Monroe County Year 2010 Comprehensive Plan (referred to hereafter as the 2010 Plan); and

WHEREAS, The Livable CommuniKeys Master Plan for Tavernier Creek to Mile Marker 97 (referred to hereafter as the Master Plan) is the product of the Livable CommuniKeys program as outlined in the 2010 Plan Objective 101.20; and

WHEREAS, Goal 105, "Smart Growth," was adopted by the Board of County Commissioners in 2001; and

WHEREAS, Objective 105.1.2 directs the County to prepare design guidelines to ensure that future uses and development are compatible with scenic preservation and maintenance of the character of the casual island village atmosphere of the Florida Keys; and

WHEREAS, the 2010 Plan Objective 101.20 identifies the Livable CommuniKeys Planning Program as a planning program designed to address community needs while balancing the needs of all of Monroe County; and

WHEREAS, Action Item 3.1.2 in the adopted Master Plan requires that design standards be prepared and that any new development or redevelopment within the US 1 Highway corridor be consistent with design standards; and

WHEREAS, Action Item 3.1.5 in the adopted Master Plan directs the County to adopt a temporary moratorium on development in the corridor until the guidelines are adopted or six months after the effective date of the Master Plan, whichever comes first; and

WHEREAS, the County has committed necessary staff and resources to the development of the design standards and design guidelines in order to facilitate diligent and good faith efforts to establish policies and regulations within a reasonable period of time; and

WHEREAS, the utilization of the moratorium device as a temporary measure to facilitate government decision making, study and adoption of comprehensive plan and land development regulations is a legitimate governmental tool to facilitate logical and considered growth and as a means of avoiding inefficient and ill-conceived development; and,

WHEREAS, the Board of County Commissioners, in anticipation of the adoption of the Master Plan, voted to contract with HDR Consultants to prepare the design guidelines and design standards and implementation measures including Land Development Regulations at their meeting of January 19, 2005; and

WHEREAS, the County finds that it is necessary to enact an Interim Development Ordinance deferring the acceptance of development applications that seek development approval for new development or redevelopment in the U. S Highway 1 corridor until such time that the County can prepare design guidelines; and,

WHEREAS, the purpose of this Interim Development Ordinance provides mechanisms to assure democratic discussions and participation by citizens, developers, and property owners who may be affected by eventual amendments to the Land Development Regulations; and

WHEREAS, Chapter 125 F.S., authorizes the Board of County Commissioners to adopt ordinances to provide standards protecting against imminent and immediate threat to the health, safety, and welfare of the citizens of Monroe County; and

WHEREAS, this Interim Development Ordinance constitutes a valid exercise of the County's police power and is otherwise consistent with Section 163.3161, *et seq.*, F.S., which, *inter alia*, encourages the use of innovative land development regulations including provisions like moratoria to implement the adopted comprehensive plan; and

WHEREAS, the purpose and intent of this Interim Development Ordinance is necessary to provide the County the opportunity to create design standards and design guidelines for review and approval of developments requiring review under Action Item 3.1.2 of the Master Plan; and

WHEREAS, following the direction of the Board of County Commissioners in the adopted Master Plan, the Growth Management Division staff immediately undertook the development of this Interim Development Ordinance and began working with the consultants HDR, Inc on development of design standards and guidelines; and

WHEREAS, the Planning Commission after hearing public comments and staff input, finds that the proposed Interim Development Ordinance is consistent with and furthers the goals and objectives of the Livable CommuniKeys Master Plan Tavernier Creek to Mile Marker 97 and the Monroe County Year 2010 Comprehensive Plan; and

NOW THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF MONROE COUNTY, FLORIDA, to recommend **APPROVAL** to the Monroe County Board of County Commissioners of the following Interim Development Ordinance:

Section 1: Pursuant to the Livable CommuniKeys Master Plan Tavernier Creek to Mile Marker 97 adopted by the Board of County Commissioners on February 16, 2005, the Interim Development Ordinance shall apply to the U.S. Highway 1 Corridor between Tavernier Creek and Mile Marker 97 including the Community Center, the boundaries of which are described on the map, attached hereto as Exhibits 1 and 2, and hereby is made part of this ordinance.

Section 2: Pursuant to its lawful authority and the pending legislation doctrine as set forth in *Smith v. City of Clearwater*, 383 So.2d 681 (Fla. 2d DCA, 1980) the Board of County Commissioners hereby establishes the interim development regulations set forth in this Ordinance, which shall remain in full force and effect until the expiration of this legislation within six months of the effective date of the Livable CommuniKeys Master Plan Tavernier Creek to Mile Marker 97 or whenever the land development regulations and design standards and guidelines become effective, whichever comes first.

Section 3: During the period (defined in Section 2, above) that this Interim Development Ordinance is in effect, no application for a building permit or development approval shall be granted for new development or redevelopment, within the U.S. Highway 1 Corridor between Tavernier Creek and Mile Marker 97 including the Community Center, which meet the following criteria:

1. Any new or expanded non-residential structures.
2. Any new or expanded outdoor retail sales.
3. Any new residential structure containing more than two units or redeveloped residential structure containing more than two units that involves a change in floor area, building height, or configuration of building footprint.
4. Any new transient residential structure or redeveloped existing transient residential structure that involves a change in floor area, building height, or configuration of building footprint.

Section 4: The following are exempt from this ordinance:

1. Public buildings as defined in Section 9.5-4 (P-18) of the Code, subject to review and approval of building design by the Planning Commission, based on the draft architectural design standards and design guidelines prepared for the county by HDR consultants.
2. Development under an approved conditional use permit, repair and/or approvals required for life safety improvements.

Section 5: The Planning Commission is hereby authorized to hear such review created by Section 4 hereof, and approve or disapprove any building design based on the draft architectural

design standards and design guidelines. Notice of the public hearing shall be given in conformance with procedures of Section 9.5-45. The application for design review shall be in a form specified by the director of planning and shall be accompanied by a nonrefundable application fee of \$250.00.

Section 6: Until expiration of the Interim Development Ordinance created by Sections 1, 2 and 3 hereof, no application for a building permit or development approval shall be granted pursuant to an application or request with a submittal date of April 1, 2005, or later.

Section 7: Any application for a building permit or development approval with a submittal date of March 31, 2005 or earlier shall be exempt from this Interim Development Ordinance.

Section 8: As of the effective date of this Ordinance no building permit application or planning approval meeting the criteria for review identified in Section 3 hereof, shall be accepted or processed by the Growth Management Division, except applications exempt hereunder and development awarded a vested rights determination pursuant to Section 10 hereof.

Section 9: This Ordinance shall not be construed to prohibit application for, or the issuance of a building permit or development approval for any development or redevelopment that does not meet the criteria for review identified in Section 3 hereof that is allowed pursuant to the Monroe County Land Development Regulations and the 2010 Plan.

Section 10: Any property owner adversely affected by the provisions of this Interim Development Ordinance may seek a determination that the owner's proposed development or redevelopment is vested against the provisions of this Interim Development Ordinance, by filing with the Director of Growth management, together with an administrative fee in the amount of \$400.00, a vested rights application setting forth facts establishing the applicant met, prior to the date that this Ordinance is adopted by the Board of Monroe County Commissioners, the vested rights standards set forth in Section 9.5-181, Monroe County code. Such application must be filed no later than sixty (60) days after the effective date of this ordinance.

Section 11: The County Administrator is directed to have the Growth Management Division begin immediately preparing the draft text and other supporting studies in cooperation with the Planning Commission to develop design standards and design guidelines for development and redevelopment along the U.S. Highway 1 Corridor between Tavernier Creek and Mile Marker 97 including the Community Center.

Section 12: In preparing these amendments, the County Administrator is directed to focus the Growth Management Division's efforts in the following important areas: 1) preparation of design standards and design guidelines to ensure that future uses and development are compatible with scenic preservation and maintenance of the character of

the casual island village atmosphere of the Florida Keys; 2) identification of regulatory amendments and strategies to ensure that the goals and objectives of the 2010 Plan and the Master Plan are properly implemented.

Section 13: If any section, subsection, sentence, clause, item, change or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

Section 14: All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 15: The ordinance is hereby transmitted to the Florida Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

Section 16: This ordinance shall be filed in the Office of the Secretary of State of the State of Florida, but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving pursuant to Chapter 380, Florida Statutes.

Section 17: This Ordinance shall stand repealed as of the adoption of design standards and design guidelines for the U.S. Highway 1 Corridor Between Tavernier Creek and Mile Marker 97 including the Community Center or Six months after the effective date of the Livable CommuniKeys Master Plan Tavernier Creek to Mile Marker 97, whichever comes first, unless repealed sooner or extended pursuant to the terms set forth herein.

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PASSED AND ADOPTED by the Planning Commission of Monroe County, Florida at a regular meeting held on the 27th day of April, 2005.

Chair Lynn C. Mapes	<u>Yes</u>
Vice Chair Denise Werling	<u>Yes</u>
Commissioner Giulio Margalli	<u>Yes</u>
Commissioner James C. Cameron	<u>No</u>
Commissioner Randy Wall	<u>Absent</u>

PLANNING COMMISSION OF MONROE COUNTY, FLORIDA

BY _____
Lynn Mapes, Chair

Signed this _____ day of _____, 2005.

ATTACHED – MAPS EXHIBIT 1 and EXHIBIT 2, U.S. HIGHWAY 1 CORRIDOR
BETWEEN TAVERNIER CREEK AND MM 97 AND COMMUNITY CENTER MAPS

**DEVELOPMENT REVIEW COMMITTEE
RESOLUTION #D7-05**

DRC RESOLUTION NO. D7-05

AN RESOLUTION BY THE MONROE COUNTY DEVELOPMENT REVIEW COMMITTEE RECOMMENDING APPROVAL TO THE MONROE COUNTY PLANNING COMMISSION OF THE ADOPTION OF AN INTERIM DEVELOPMENT ORDINANCE FOR THE U.S. HIGHWAY 1 CORRIDOR BETWEEN TAVERNIER CREEK AND MILE MARKER 97; ESTABLISHING THE BOUNDARIES THEREOF; DEFERRING THE ACCEPTANCE OF DEVELOPMENT APPLICATIONS UNTIL DESIGN STANDARDS AND GUIDELINES ARE ADOPTED; PROVIDING FOR EXEMPTIONS; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS (DCA); PROVIDING FOR EXPIRATION WITHIN SIX MONTHS AFTER THE EFFECTIVE DATE OF THE LIVABLE COMMUNIKEYS MASTER PLAN TAVERNIER CREEK TO MILE MARKER 97 OR UPON ADOPTION OF DESIGN STANDARDS AND DESIGN GUIDELINES, WHICHEVER COMES FIRST.

WHEREAS, the Board of County Commissioners at their meeting of February 16, 2005, adopted the Livable CommuniKeys Master Plan Tavernier Creek to Mile Marker 97 as an amendment to the Monroe County Year 2010 Comprehensive Plan (referred to hereafter as the 2010 Plan); and

WHEREAS, the Livable CommuniKeys Master Plan for Tavernier Creek to Mile Marker 97 (referred to hereafter as the Master Plan) is the product of the Livable CommuniKeys program as outlined in the 2010 Plan Objective 101.20; and

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WHEREAS, the 2010 Plan Objective 101.20 identifies the Livable CommuniKeys Planning Program as a planning program designed to address community needs while balancing the needs of all of Monroe County; and

WHEREAS, Action Item 3.1.2 in the adopted Master Plan requires that design standards be prepared and that any new development or redevelopment within the US 1 Highway corridor be consistent with design standards; and

WHEREAS, Action Item 3.1.5 in the adopted Master Plan directs the County to adopt a temporary moratorium on development in the corridor until the guidelines are adopted or six months after the effective date of the Master Plan, whichever comes first; and

WHEREAS, the County has committed necessary staff and resources to the development of the design standards and design guidelines in order to facilitate diligent and good faith efforts to establish policies and regulations within a reasonable period of time; and

WHEREAS, the utilization of the moratorium device as a temporary measure to facilitate government decision making, study and adoption of comprehensive plan and land development regulations is a legitimate governmental tool to facilitate logical and considered growth and as a means of avoiding inefficient and ill-conceived development; and,

WHEREAS, the Board of County Commissioners, in anticipation of the adoption of the Master Plan, voted to contract with HDR Consultants to prepare the design guidelines and design standards and implementation measures including Land Development Regulations at their meeting of January 19, 2005; and

WHEREAS, the County finds that it is necessary to enact an Interim Development Ordinance deferring the acceptance of development applications that seek development approval for new development or redevelopment in the U. S Highway 1 corridor until such time that the County can prepare design guidelines; and,

WHEREAS, the purpose of this Interim Development Ordinance provides mechanisms to assure democratic discussions and participation by citizens, developers, and property owners who may be affected by eventual amendments to the Land Development Regulations; and

WHEREAS, Chapter 125 F.S., authorizes the Board of County Commissioners to adopt ordinances to provide standards protecting against imminent and immediate threat to the health, safety, and welfare of the citizens of Monroe County; and

WHEREAS, this Interim Development Ordinance constitutes a valid exercise of the County's police power and is otherwise consistent with Section 163.3161, *et seq.*, F.S., which, *inter alia*, encourages the use of innovative land development regulations including provisions like moratoria to implement the adopted comprehensive plan; and

WHEREAS, the purpose and intent of this Interim Development Ordinance is necessary to provide the County the opportunity to create design standards and design guidelines for review and approval of developments requiring review under Action Item 3.1.2 of the Master Plan; and

WHEREAS, following the direction of the Board of County Commissioners in the adopted Master Plan, the Growth Management Division staff immediately undertook the development of this Interim Development Ordinance and began working with the consultants HDR, Inc on development of design standards and guidelines; and

WHEREAS, the Monroe County Development Review Committee, during a regular meeting held on March 24, 2005, conducted a review and consideration of the request filed by the Monroe County Planning Department to recommend approval to the Monroe County Planning Commission of the Interim Development Ordinance.

NOW THEREFORE, BE IT RESOLVED BY THE DEVELOPMENT REVIEW COMMITTEE OF MONROE COUNTY, FLORIDA, to recommend **APPROVAL** to the Monroe County Planning Commission of the following as requested by the Monroe County Planning Department:

Section 1: Pursuant to the Livable CommuniKeys Master Plan Tavernier Creek to Mile Marker 97 adopted by the Board of County Commissioners on February 16, 2005, the Interim Development Ordinance shall apply to the U.S. Highway 1 Corridor between Tavernier Creek and Mile Marker 97 including the Community Center, the boundaries of which are described on the map, attached hereto as Exhibits 1 and 2, and hereby is made part of this ordinance.

Section 2: Pursuant to its lawful authority and the pending legislation doctrine as set forth in *Smith v. City of Clearwater*, 383 So.2d 681 (Fla. 2d DCA, 1980) the Board of County Commissioners hereby establishes the interim development regulations set forth in this Ordinance, which shall remain in full force and effect until the expiration of this legislation within six months of the effective date of the Livable CommuniKeys Master Plan Tavernier Creek to Mile Marker 97 or whenever the land development regulations and design standards and guidelines become effective, whichever comes first.

Section 3: During the period (defined in Section 2, above) that this Interim Development Ordinance is in effect, no application for a building permit or development approval shall be granted for new development or redevelopment, within the U.S. Highway 1 Corridor between Tavernier Creek and Mile Marker 97 including the Community Center, which meet the following criteria:

1. Any new or expanded non-residential structures.
2. Any new or expanded outdoor retail sales.
3. Any new residential structure containing more than two units or redeveloped residential structure containing more than two units that involves a change in floor area, building height, or configuration of building footprint.
4. Any new transient residential structure or redeveloped existing transient residential structure that involves a change in floor area, building height, or configuration of building footprint.

Section 4: The following are exempt from this ordinance:

1. Public buildings as defined in Section 9.5-4 (P-18) of the Code, subject to review and approval of building design by the Planning Commission, based on the draft architectural design standards and design guidelines prepared for the county by HDR consultants.
2. Development under an approved conditional use permit, repair and/or approvals required for life safety improvements.

Section 5: The Planning Commission is hereby authorized to hear such review created by Section 4 hereof, and approve or disapprove any building design based on the draft architectural

design standards and design guidelines. Notice of the public hearing shall be given in conformance with procedures of Section 9.5-45. The application for design review shall be in a form specified by the director of planning and shall be accompanied by a nonrefundable application fee of \$250.00.

Section 6: Until expiration of the Interim Development Ordinance created by Sections 1, 2 and 3 hereof, no building permits or development approval shall be granted pursuant to an application or request with a submittal date of April 1, 2005, or later.

Section 7: Any application for a building permit or development approval with a submittal date of March 31, 2005 or earlier shall be exempt from this Interim Development Ordinance.

Section 8: As of the effective date of this Ordinance no building permit application or planning approval meeting the criteria for review identified in Section 3 hereof, shall be accepted or processed by the Growth Management Division, except applications exempt hereunder and development awarded a vested rights determination pursuant to Section 10 hereof.

Section 9: This Ordinance shall not be construed to prohibit the issuance of a building permit or planning approval for any development or redevelopment that does not meet the criteria for review identified in Section 3 hereof that is allowed pursuant to the Monroe County Land Development Regulations and the 2010 Plan.

Section 10: Any property owner adversely affected by the provisions of this Interim Development Ordinance may seek a determination that the owner's proposed development or redevelopment is vested against the provisions of this Interim Development Ordinance, by filing with the Director of Growth management, together with an administrative fee in the amount of \$400.00, a vested rights application setting forth facts establishing the applicant met, prior to the date that this Ordinance is adopted by the Board of Monroe County Commissioners, the vested rights standards set forth in Section 9.5-181, Monroe County code. Such application must be filed no later than sixty (60) days after the effective date of this ordinance.

Section 11: The County Administrator is directed to have the Growth Management Division begin immediately preparing the draft text and other supporting studies in cooperation with the Planning Commission to develop design standards and design guidelines for development and redevelopment along the U.S. Highway 1 Corridor between Tavernier Creek and Mile Marker 97 including the Community Center.

Section 12: In preparing these amendments, the County Administrator is directed to focus the Growth Management Division's efforts in the following important areas: 1) preparation of design standards and design guidelines to ensure that future uses and development are compatible with scenic preservation and maintenance of the character of the casual island village atmosphere of the Florida Keys; 2) identification of regulatory

amendments and strategies to ensure that the goals and objectives of the 2010 Plan and the Master Plan are properly implemented.

Section 13: If any section, subsection, sentence, clause, item, change or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

Section 14: All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 15: The ordinance is hereby transmitted to the Florida Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

Section 16: This ordinance shall be filed in the Office of the Secretary of State of the State of Florida, but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving pursuant to Chapter 380, Florida Statutes.

Section 17: This Ordinance shall stand repealed as of the adoption of design standards and design guidelines for the U.S. Highway 1 Corridor Between Tavernier Creek and Mile Marker 97 including the Community Center or Six months after the effective date of the Livable CommuniKeys Master Plan Tavernier Creek to Mile Marker 97, whichever comes first, unless repealed sooner or extended pursuant to the terms set forth herein.

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